

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff

v.

U.S. ANESTHESIA PARTNERS, INC.

Defendant

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Case No. 4:23-CV-03560-KH

DECLARATION OF DIANE DINH

STATE OF TEXAS §

§

COUNTY OF HARRIS §

I, Diane Dinh, am competent to testify to the matters set forth in this declaration and state as follows:

1. I am the Practice Manager of Texans Anesthesia Associates, PLLC, and as such I have personal knowledge of the matters set forth in this declaration.

2. I have reviewed the Subpoenas to Produce Documents served on Texans Anesthesia by U.S. Anesthesia Partners, Inc. on November 1 and 13, 2024 (Ex. 1 and 2), and by the Federal Trade Commission on November 13, 2024 (Ex. 3).

3. After reviewing the requests in more detail and considering where TAA would likely maintain any responsive documents, it would mostly likely take 50-60 hours (for a total of \$5,000.00-6,000.00 at a rate of \$100 per hour) to search for, compile, and organize documents responsive to requests 2, 3, 5, 6, 7, 18, 22, and in response to request

4 to find information and calculate the number of licensed clinicians employed by Texans Anesthesia as of January 1 of each year since 2012:

REQUEST FOR PRODUCTION NO. 2:

All contracts or Agreements with Hospitals, ASCs, or other facilities in the State of Texas where You have provided Anesthesia Services, including, but not limited to, the following:

- a. Documents sufficient to show any Subsidy You received from a Hospital, ASC, or other facility for the provision of Anesthesia Services;
- b. Documents sufficient to show Your coverage obligations between You and any Hospital, ASC, or other facility, including any obligations relating to the availability of physicians or CRNAs; whether in-house or on-call coverage is needed; and whether specialized coverage is required for specific departments within Your facility/facilities (e.g., trauma or cardiac care);
- c. Documents sufficient to show any nonmedical or administrative services (including, but not limited to, scheduling and billing) provided by You to any Hospital, ASC, or other facility, including any changes over time;
- d. Documents sufficient to identify whether You acted as the exclusive Anesthesia Provider at any Hospital, ASC, or other facility; and
- e. Documents sufficient to show the identity of each Hospital, ASC, or other facility at which You provided Anesthesia Services, including its address, zip code, and facility identification number (e.g., Medicare Provider Number), and whether it offered Inpatient Services, Outpatient Services, or both.

REQUEST FOR PRODUCTION NO. 3:

All Documents and Communications relating to the termination of any contractual relationship between You and a Hospital, ASC, or other facility located in the State of Texas. This request includes, but is not limited to, Documents or Communications discussing, analyzing, or assessing the reason(s) why any such contractual relationship ended (and if You terminated the relationship, the reasons why You did so), as well as feedback or complaints You have received relating to (i) Your Network Status, (iii) any Subsidy You requested or required, or (iii) the quality of Your Anesthesia Services or other services You provided.

REQUEST FOR PRODUCTION NO. 5:

Documents Relating to any attempt You have made to establish a new relationship with a Hospital, ASC, or other facility or to maintain any existing relationship, including, but not limited to, the following:

- a. Any bids or responses to requests for proposals from Hospitals, ASCs, or other facilities that You prepared or submitted; and
- b. Documents or Communications reflecting any challenges or competition You face in seeking to establish or maintain a relationship with a Hospital, ASC, or other facility.

REQUEST FOR PRODUCTION NO. 6:

Documents and Communications with Hospitals, ASCs, or other facilities relating to any Subsidy You or the Hospital, ASC, or other facility negotiated, calculated, requested, or agreed to between January 1, 2010, and the present.

REQUEST FOR PRODUCTION NO. 7:

Documents concerning any evaluation or analysis (whether conducted by You or by a consultant or other third party) of the Subsidies You receive, have requested, or plan to request from any Hospital, ASC, or other facility, or of how those Subsidies compare to those received or requested by any other Anesthesia Service Provider.

REQUEST FOR PRODUCTION NO. 18:

All Agreements between You and any Commercial Healthcare Insurer between January 1, 2010, and the present.

REQUEST FOR PRODUCTION NO. 22:

Documents sufficient to identify each acquisition (of or by You), partnership, or merger You have made or considered making with another Anesthesia Service Provider, including: (i) the purpose of the acquisition, partnership, or merger; (ii) the amount You paid or accepted, or considered paying or accepting, in connection with the acquisition, partnership, or merger; and (iii) any analyses relating to potential acquisitions, partnerships, or mergers.

REQUEST FOR PRODUCTION NO. 4:

Documents sufficient to show, on an annual basis, the number of Clinicians who worked at Your practice and the number of Clinicians who were physicians,

CRNAs, and CAAs.

4. Regarding request 15, Texans Anesthesia has been in network with Cigna, Aetna, United Healthcare, and Blue Cross Blue Shield continuously since at least 2012:

REQUEST FOR PRODUCTION NO. 15:

Documents sufficient to show the time period(s) when You have been In Network and when You have been Out of Network in the State of Texas (or any MSA within the State of Texas) with any Commercial Healthcare Insurer.

**I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING
IS TRUE AND CORRECT. EXECUTED ON THE ____ DAY OF DECEMBER 2024.**

Diane Dinh, Practice Manager
Texans Anesthesia Associates, PLLC